

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

|                              |   |                        |
|------------------------------|---|------------------------|
| MARY REIFSTECK,              | ) |                        |
|                              | ) |                        |
| Plaintiff,                   | ) |                        |
|                              | ) |                        |
| vs.                          | ) | Case No. 4:04CV742 RWS |
|                              | ) |                        |
| PACO BUILDING SUPPLY CO.,    | ) |                        |
| a wholly owned subsidiary of | ) |                        |
| C.F. VATTEROTT & CO.,        | ) |                        |
|                              | ) |                        |
| Defendant.                   | ) |                        |

**MEMORANDUM AND ORDER**

Plaintiff Mary Reifsteck's alleges that she was subjected to employment discrimination by her former employer Defendant Paco Building Supply. One of her allegations is that she was fired by Paco during a mediation session conducted by the Equal Employment Opportunity Commission.

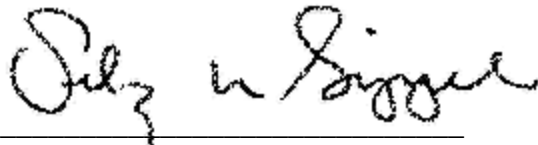
In pursuing discovery for this allegation, Paco served the EEOC mediator, Maria Schulte, with a subpoena for a deposition and production of documents relating to the mediation. The EEOC has filed a motion to quash the subpoena. In support of its motion, the EEOC states that 29 C.F.R. § 1610.32 prevents EEOC employees from testifying or producing documents in response to a subpoena without the prior approval of the EEOC's Legal Counsel. The EEOC's Legal Counsel has declined to allow Ms. Schulte to comply with the subpoena. Schulte's refusal to comply is appropriate based on the promulgation of § 1610.32. United States ex. rel. Touhy, 340 U.S. 462 (1951).

Paco is not left without a remedy. It may, among other options, proceed under the

Administrative Procedure Act, 5 U.S.C. § 704, and challenge the EEOC's decision not to allow Ms. Schulte to testify or produce documents.

Accordingly,

**IT IS HEREBY ORDERED** that the EEOC's motion to quash the subpoena served upon Maria Schulte in this matter [#62] is **GRANTED**.

A handwritten signature in black ink, appearing to read "Rodney W. Sippe", written over a horizontal line.

RODNEY W. SIPPEL  
UNITED STATES DISTRICT JUDGE

Dated this 24th day of January, 2006.